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IYO, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IYO, INC.

Plaintiff,

v.

IO PRODUCTS, INC., OPENAI, INC.,
OPENAI, LLC, SAM ALTMAN, and SIR
JONATHAN PAUL IVE,

Defendants.

Case No. 3:25-cv-4861

**REPLY DECLARATION OF JASON
RUGOLO IN FURTHER SUPPORT OF
PLAINTIFF'S MOTION FOR A
TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION**

Complaint Filed: June 9, 2025
Judge: Hon. Trina L. Thompson
Hearing: June 17, 2025 at 2pm

1 I, Jason Rugolo, do hereby declare as follows:

2 1. I am the founder and Chief Executive Officer of Plaintiff IYO, Inc. (“Plaintiff” or
3 “IYO”) in the above-captioned matter. I am over 18 years of age. I have personal knowledge of
4 the facts stated herein, and if called as a witness, I could and would testify competently thereto. I
5 make this reply declaration in further support of Plaintiff’s Motion for a Temporary Restraining
6 Order and Preliminary Injunction.

7 2. Within an hour after I finished my call with Mr. Altman on May 30, 2025, I took
8 copious notes of what was said during that call. Attached hereto as **Exhibit K** is a true and correct
9 copy of my May 30, 2025, notes.

10 3. As shown in Exhibit K, Mr. Altman made it very clear that he believed that he had
11 trademark rights in the mark IO, and contemplated suing IYO for trademark infringement when he
12 postulated, “will we sue you [IYO] to stop using the name?” I even asked him to clarify. He said
13 he was referring to Defendants’ trademark rights and was referring to Defendants suing IYO.
14 However, Defendants have not produced any evidence of any trademark registration or application.
15 IYO, on the other hand, has a registered trademark. (See, Exhibit A to the Verified Complaint.) The
16 application for that trademark was filed on September 17, 2021, was published on February 14,
17 2023, and was registered June 4, 2024.

18 4. During the TED Talk I conducted in April 2024, the IYO ONE device was
19 functional, but because the demonstrations had to be run through the stage’s audio system, the
20 demos had to be pre-recorded. The demos involved actual use of devices and/or their software; the
21 use was just pre-recorded. The device being demonstrated was running, and operational at the time
22 of the TED Talk.

23 5. During the May 1, 2025, meeting with Defendants at their offices, I made it clear
24 that the IYO ONE product would be generally available to all consumers. The IYO ONE is targeted
25 to the broad, general consumer audience.

26 6. In contrast to IYO ONE, our initial product, the VAD PRO, was created to prove
27 our virtual audio experience concepts and to serve as a testbed for developing IYO ONE
28 experiences. Consistent with those limited purposes, the VAD PRO was created and designed for

1 a smaller, more targeted audience who would value and appreciate its innovative features and be
2 willing to purchase it at a higher price point; the reference to particular users on the old website
3 (e.g., professional musicians, audio engineers, audiophiles, auditory neuroscientists, and
4 psychoacousticians) was directed to the VAD PRO, not the current IYO ONE. Attached hereto as
5 **Exhibit N** is a screenshot of our prior website which makes clear that the list of these potential
6 users was made solely with reference to the VAD PRO, not the IYO ONE. Keep in mind, VAD
7 PRO was targeting buyers who were already used to paying a premium for custom-fitted earpieces.
8 In sharp contrast, the IYO ONE is intended for and marketed toward a much broader, general
9 consumer audience. I made all of this clear at the May 1, 2025, meeting. This was also reflected in
10 the list of potential users in the prior website for IYO ONE, which included very broad categories
11 covering most people, such as “ai enthusiasts,” “world travelers,” “remote workers,” “music
12 lovers,” etc.

13 7. We recently updated IYO’s website. The update has been in the works for months.
14 We started working on the website refresh several months ago, and it was finally ready, which is
15 why the website was recently updated. The refresh has nothing to do with the lawsuit, and given
16 its breadth and scope, it was obviously not something we just threw together in the past few days.

17 8. The IYO ONE does need to be custom fitted for best results; however, IYO ONE is
18 the first generation of a family of products. The second generation of this product does not require
19 custom fitting. As I told the Defendants, our plan is and has always been to launch fast and iterate
20 toward a universal-fitting device.

21 9. I have spent many weeks this year at our factory in Asia finalizing development and
22 production of the IYO ONE. We just completed Engineering Validation Test (“EVT”) and the IYO
23 ONE is on track for commercial release and shipment in September/October 2025.

24 10. Ms. Caruso cited in her declaration my April 2024 TED Talk and included a copy
25 of its transcript (Exhibit F to her declaration). She did not include the video of the TED Talk.
26 Therefore, attached hereto as **Exhibit L** is a video of my April 2024 TED Talk, found at
27 https://www.ted.com/talks/jason_rugolo_welcome_to_the_world_of_audio_computers.

28

1 11. Exhibit J to my declaration filed on June 9, 2025, included the Defendants' public
2 announcement regarding IO. That Exhibit included the video shown at that same webpage:
3 <https://openai.com/sam-and-jony/>. Mr. Tan also referenced this video in his declaration in
4 paragraph 16. Thus, attached hereto as **Exhibit M** is that video.

5 12. Defendants' announcement of IO swamped the marketplace. For example, an
6 acquaintance texted me on June 3, 2025, saying that he was "currently at an investor conference
7 and [has] heard four references to Ive/Altman 'IO' so far today." For Defendants to suggest that
8 their use of "io" is not impacting commerce is, sadly for IYO, misleading.

9 13. IYO has not been able to secure any additional funding or pledges for funding since
10 the Defendants' May 21, 2025, announcement.

11 I declare under penalty of perjury under the laws of the United States of America that the
12 foregoing is true and correct.

13 Executed on June 15, 2025, in Redwood City, California.

Signed by:



14
15 Jason Rugolo